

the Federal Circuit found *patentable* in *In re Gulack*. In *In re Gulack*, the invention-at-issue consisted of: (1) a band, ring, or set of concentric rings; (2) a plurality of individual digits imprinted on the band or ring at regularly spaced intervals; and (3) an algorithm by which the appropriate digits are developed. The rejection by the PTO was premised upon the fact that a circular band with items printed upon it was well known in the art. The Federal Circuit *reversed*, finding that the numbers printed on the band had a functional relationship to the band itself. Similarly, in the present case, the material printed on the statistical report has a functional relationship to the statistical report itself and to the method for generating the statistical report. Consequently, the rejection of claims 64-66 and 68-70 is traversed for at least this additional reason. Thus, Appellants request reversal of the 35 U.S.C. § 103(a) ground of rejection as applied to claims 64-66 and 68-70.

Ground of Rejection #2

I. Claims 38-41 and 43 are improperly rejected under 35 U.S.C. § 103(a) because the alleged combination of Guyett, McIntyre, and Forrest fails to disclose all of Appellants' claimed limitations

Summary

In the final Office action, claims 38-41 and 43 are allegedly unpatentable over U.S. Patent No. 6,764,395 to Guyett ("Guyett") in view of U.S. Patent Application Publication No. 2003/0191690 to McIntyre ("McIntyre"), in further view of U.S. Patent No. 5,679,075 to Forrest ("Forrest"). Appellants are contesting this ground of rejection as the combination of Guyett, McIntyre, and Forrest fails to disclose each and every one of the limitations recited in Appellants' claims 38-41 and 43. Applicants also contest this ground of rejection because McIntyre teaches away from the aspects cited in Guyett and/or Forrest, thus the alleged combination is impermissible.

Applicable Law

A claimed invention is unpatentable if the differences between it and the prior art are such that the subject matter as a whole would have been obvious at the time the